REMARKS

Claims 1-9, 11-15, 21-29 and 31-35 are currently pending in the subject application and are presently under consideration. Claim 31 has been amended as shown on p. 6 of the Reply. Claims 10, 16-20 and 30 stand cancelled. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I.   Rejection of Claims 1-15 and 21-35 Under 35 U.S.C. §102(e)

Claims 1-9, 11-15, 21-29 and 31-35 stand rejected under 35 U.S.C. §102(e) as being anticipated by Crater *et al.* (US 6,201,996). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Crater *et al.* fails to teach or suggest *each and every element* of the subject claims.

> For a prior art reference to anticipate, 35 U.S.C. §102 requires that *"each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson,* 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.,* 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added).

As shown previously, the subject invention relates to a system and method for interfacing with a control system from a remote computer using the Internet to download an applet from a web server communicatively coupled to the industrial controller. To that end, independent claim 1 (and similarly in independent claim 21) recites that *the protocol provides for at least one persistence instruction that preserves an instance of a software object on the Web server after cessation of a communication session between the remote computer and the Web server.* Crater *et al.* does not disclose such claim features.

Crater *et al.* relates to communication with programmable controllers for operating and monitoring industrial processes and equipment. However, Crater *et al.* nowhere discloses *a persistence instruction that preserves an instance of a software object on the Web server.* In the Final Action dated October 28, 2005, the Examiner

states, "Firstly, Crater *et al.* discloses an applet (an instruction that preserves an instance of a software object) transmitted by the controller with the web page to the client (col. 7, lines 7-10), i.e. the applet is on the web server." However, this cited passage actually states, *"As used herein, the term "applet" refers generically to browser-executable instructions transmitted by the controller, preferably with (or adjunct to) a web page. "* It is clear from this cited passage (along with the general understanding of internet protocol) that an applet executes on a web browser, *not* a web server as alleged by the Examiner. The Final goes on to state that, "The applet is capable of updating the user's display every 15 sec (i.e. persistence instruction). The applet causes the browser to communicate with the server controller every 15 sec to obtain new Cap-Time data (i.e. the persistence applet causes communication after session cessation every 15 sec) (col. 20, lines 26-37)." This cited passage actually states that a web page presented to a viewer *"is capable of autonomous action while executing on the viewer's browser... by embedding applet code in the web page. "* It is clear from this passage that it is the *applet code,* embedded in the *web page,* which causes the browser to communicate with the controller every 15 sec to obtain new Cap_Time data. Therefore, *assuming arguendo* that even if the applet could somehow be construed as "a persistence instruction" as alleged by the Examiner, it cannot be construed as "a persistence instruction that preserves an instance of a software object *on the Web server"* as recited in claims 1 and similarly in independent claim 21. As such, Crater *et al.* does not teach or suggest each and every element as recited in the subject claims. Thus, the rejection should be withdrawn. As Crater, *et al.* does not disclose each and every aspect as claimed, the rejection of independent claim 1 and 21 (and claims which depend therefrom) should be withdrawn.

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III.   Rejection of Claims 2-4 and 22-23 Under 35 U.S.C. §103(a)

Claims 2-4 and 22-23 stand rejected under 35 U.S.C. §103(a) as being anticipated
by Crater *et al.* in view of Skonnard. It is respectfully submitted that this rejection should
be withdrawn for at least the following reasons. Skonnard does not make up for the
aforementioned deficiencies of Crater *et al.* with respect to independent claims 1 and 21
(from which claims 2-3 and 22-23 depend). Specifically, Skonnard, like Crater *et al.*,
fails to teach or suggest *one persistence instruction that preserves an instance of a
software object on the Web server* as recited in independent claim 1 (and similarly in
independent claim 21). Therefore, the subject invention as recited in independent claims
1 and 21 (and 2-4 and 22-23 which depend therefrom) is not obvious over the
combination of Crater *et al.* and Skonnard. Thus, it is respectfully requested that this
rejection be withdrawn.

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CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

AMIN & TUROCY, LLP
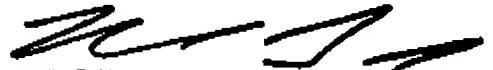
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